

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #4	CCRB Case #: 201702356	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/23/2017 6:05 AM	Location of Incident: 400 East 30th Street and the 13th Precinct stationhouse	Precinct: 13	18 Mo. SOL 9/23/2018	EO SOL 9/23/2018	
Date/Time CV Reported Tue, 03/28/2017 11:14 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 03/28/2017 11:14 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Richard Altamirano	29866	939866	NARCBMS
2. SGT Jason Stocker	03041	933389	NARCBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Sean Haggerty	4923	945800	NARCBMS
2. DT3 Edgar Mercado	3007	939024	NARCBMS
3. DT3 Ricardo Mantilla	00523	942118	NARCBMS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Richard Altamirano	Abuse: Detective Richard Altamirano entered and searched 400 East 30th Street, Apartment 4E-19, in Manhattan.	
B.DT3 Richard Altamirano	Force: At 400 East 30th Street in Manhattan, Detective Richard Altamirano used physical force against § 87(2)(b)	
C.DT3 Richard Altamirano	Discourtesy: At 400 East 30th Street in Manhattan, Detective Richard Altamirano spoke discourteously to § 87(2)(b)	
D.DT3 Richard Altamirano	Off. Language: At 400 East 30th Street in Manhattan, Detective Richard Altamirano made remarks to § 87(2)(b) based upon race.	
E.DT3 Richard Altamirano	Abuse: At 400 East 30th Street in Manhattan, Detective Richard Altamirano failed to show the search warrant to § 87(2)(b)	
F.SGT Jason Stocker	Abuse: At the 13th Precinct stationhouse, Sergeant Jason Stocker strip-searched § 87(2)(b)	
G.DT3 Richard Altamirano	Force: At the 13th Precinct stationhouse, Detective Richard Altamirano used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint at the CCRB in person on March 28, 2017 (BR 01).

On March 23, 2017, at approximately 6:05 a.m., officers from Narcotics Borough Manhattan South executed a search warrant (BR 02) at Apartment 4E-19 of the men's shelter at 400 East 30th Street in Manhattan (**Allegation A**). § 87(2)(b) was in bed and sat up when he heard the officers enter. Det. Altamirano allegedly tackled § 87(2)(b) with a ballistic shield and then punched him in the head and upper body about four times (**Allegation B**). § 87(2)(b) asked the officers what they were doing in his room. Det. Altamirano allegedly replied, "Shut the fuck up, nigger" (**Allegations C and D**). § 87(2)(b) asked to see the search warrant. Det. Altamirano allegedly failed to show it to him (**Allegation E**).

Det. Edgar Mercado and Det. Ricardo Mantilla transported § 87(2)(b) to the 13th Precinct stationhouse in a prisoner van. At the stationhouse, Sgt. Jason Stocker authorized the strip search of § 87(2)(b) (**Allegation F**). When § 87(2)(b) was reluctant to remove his clothing, Det. Altamirano allegedly punched him in the face three or four times (**Allegation G**).

§ 87(2)(b) experienced body pain due to the force described above, but did not seek or receive medical treatment as a result of this incident. Officers reportedly found razors with crack residue and a scale in § 87(2)(b)'s room. § 87(2)(b) was charged with Criminal Possession of a Controlled Substance in the Seventh Degree (BR 03). His criminal case is ongoing.

Security video was obtained from the men's shelter, but did not show any of the FADO allegations aside from the entry (BR 04-07).

Mediation, Civil and Criminal Histories

- § 87(2)(b)'s arrest rendered this case unsuitable for mediation.
- A request for any Notice of Claim filed in relation to this incident was submitted to the Comptroller's office on June 9, 2017. Their response will be added to the case file upon receipt.
- A search of Office of Court Administration records showed no criminal convictions for § 87(2)(b) in the past ten years (BR 08).

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 09).
- Det. Altamirano has been a member of the NYPD for 11 years. There are six prior complaints against him containing 11 allegations, none of which was substantiated. Three of his prior complaints include force allegations.
- Sgt. Stocker has been a member of the NYPD for 13 years. There are three prior complaints against him containing seven allegations, none of which was substantiated.

§ 87(2)(g)

Potential Issues

The investigation was unable to identify the only civilian witness in this case: § 87(2)(b)'s roommate. § 87(2)(b) did not know his roommate's name and no longer roomed with him at the

time of his interview. A subpoena was submitted to the Department of Homeless Services, but they responded that their privacy policies prohibit them from revealing this information without a court order. § 87(2)(b)'s roommate was not arrested and his name was not recorded on any of the police documents obtained by the CCRB. As such, his testimony was not available.

Findings and Recommendations

Allegation A – Abuse of Authority: Detective Richard Altamirano entered and searched 400 East 30th Street, Apartment 4E-19, in Manhattan.

It is undisputed that officers entered § 87(2)(b)'s room at the men's shelter. The search warrant was issued on March 22, 2017, based on an affidavit from Det. Altamirano, and directs officers to enter Apartment 4E-19 and seize any narcotics and paraphernalia found therein (BR 02).

Officers are permitted to forcefully enter a premises and conduct a full and thorough search for contraband outlined in a search warrant. N.Y.S. Criminal Procedure Law, Section 690.50 (BR 10).

§ 87(2)(b), § 87(2)(g)

Allegation B – Force: At 400 East 30th Street in Manhattan, Detective Richard Altamirano used physical force against § 87(2)(b)

Allegation C – Discourtesy: At 400 East 30th Street in Manhattan, Detective Richard Altamirano spoke discourteously to § 87(2)(b)

Allegation D – Offensive Language: At 400 East 30th Street in Manhattan, Detective Richard Altamirano made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) said he was asleep in bed when officers entered the room (BR 11). He was awakened by their yelling and partially “lifted up” his body to see what was going on. An officer, identified by the investigation as Det. Altamirano, allegedly “tackled” him with a shield and then punched him in the head and upper body about four times. § 87(2)(b) asked what the officers were doing in his room. Det. Altamirano replied, “Shut the fuck up, nigger.” Officers stood § 87(2)(b) up, handcuffed him, and walked him to the hallway. § 87(2)(b)'s written complaint states that he was bleeding from the face due to the punches (BR 01), but he did not repeat this in his interview and only said he experienced pain. He did not seek medical treatment. His arrest photo shows no visible injuries (BR 19). The Department of Homeless Services' incident report does not note any force being used against § 87(2)(b) (see Privileged Documents).

Det. Altamirano, the first officer to enter the room, said § 87(2)(b) was sitting upright in bed when he entered (BR 12). He twice told § 87(2)(b) to get on the ground, but § 87(2)(b) just looked at him and did not move or say anything. Det. Altamirano then used his ballistic shield to “push” § 87(2)(b) to the floor, after which Det. Sean Haggerty put him in handcuffs. Det. Altamirano denied punching § 87(2)(b) or using any force aside from pushing him with the shield. He denied saying, “Shut the fuck up, nigger,” or using any obscenities or racial slurs.

Det. Haggerty, the second officer to enter the room, said § 87(2)(b) was lying in bed when he entered (BR 13). The officers identified themselves and said not to move. § 87(2)(b) partially sat up in bed and put his hands up. Det. Haggerty told him to get up. § 87(2)(b) “slid off the

bed” by himself and lied on the floor, where Det. Haggerty handcuffed him. Det. Haggerty said Det. Altamirano’s shield never made contact with § 87(2)(b) and that neither of them used any force, said “Shut the fuck up, nigger,” or used any obscenities or racial slurs.

Sgt. Stocker, the fifth officer to enter the room, said § 87(2)(b) was asleep when they entered and was handcuffed while still in bed (BR 14). Sgt. Stocker did not see any officer hit him with a ballistic shield. No officer punched § 87(2)(b) or said, “Shut the fuck up, nigger.”

The other officers interviewed, Det. Mercado and Det. Mantilla, said they did not enter the room because it was too small for the whole team to go inside (BR 15 and 16). They did not see § 87(2)(b) being handcuffed.

§ 87(2)(b), § 87(2)(g)

Allegation E – Abuse of Authority: At 400 East 30th Street in Manhattan, Detective Richard Altamirano failed to show the search warrant to § 87(2)(b)

§ 87(2)(b) said that, while he was in the hallway, he asked to see the search warrant (BR 11). He could not remember which officer or officers this request was directed toward. No officer showed him a search warrant.

Det. Altamirano acknowledged that he did not show the search warrant to § 87(2)(b) at the scene of arrest, but said he showed it to him later, while they were at the stationhouse (BR 12).

The Patrol Guide directs that the officer “executing the search warrant should, when able to do so safely, show a copy of the search warrant upon request.” Patrol Guide, Section 221-17 (BR 17).

§ 87(2)(b), § 87(2)(g)

Allegation F – Abuse of Authority: At the 13th Precinct stationhouse, Sergeant Jason Stocker strip-searched § 87(2)(b)

§ 87(2)(b) said he was wearing shorts and a shirt when the officers entered his apartment (BR 11). The officers got a jacket from his belongings before taking him outside. At the stationhouse, three officers took him into a bathroom and told him to remove his clothes. The officers found nothing during the strip search and returned him to his cell.

Sgt. Stocker confirmed that he authorized the strip search of § 87(2)(b) and was present during it (BR 14). He said that, while § 87(2)(b) was waiting in the hallway in handcuffs as officers searched his room, he saw § 87(2)(b) “fidgeting with the back of his pants” as if he were “shoving something inside of it.” Sgt. Stocker was inside the room supervising the search when he saw this. He did not see any object in § 87(2)(b)’s hand, but the movement made him suspect that he was concealing something. He said that, at the stationhouse, one of the officers assigned to the prisoner van – he did not remember which one – told him that § 87(2)(b) continued the movements at the back his pants during the drive. Sgt. Stocker said these movements were his sole reason for authorizing the strip search.

Det. Mercado and Det. Mantilla were assigned to the prisoner van. Det. Mercado said § 87(2)(b) stood quietly in the hallway and did not make any notable movements (BR 15). He did not see § 87(2)(b) reach into his waistband or otherwise attempt to conceal anything. Det. Mantilla said § 87(2)(b) was agitated and paced back and forth in the hallway, but he did not see him reach into his waistband (BR 16). Det. Mantilla searched § 87(2)(b)’s person before putting him in the prisoner van and found no contraband. Both officers said § 87(2)(b) did not make any noteworthy movements during the drive. They both said they did not know of any strip search taking place and were not present during a strip search.

Det. Altamirano said he searched § 87(2)(b)’s room for contraband while other officers supervised him in the hallway (BR 12). He therefore could not describe § 87(2)(b)’s behavior while he was in the hallway. Det. Altamirano conducted the strip search, but said Sgt. Stocker made the decision to authorize it himself and he had no knowledge of what factors led Sgt. Stocker to authorize it.

Det. Haggerty searched § 87(2)(b)’s room with Det. Altamirano (BR 13). He did not see § 87(2)(b) make any movements that looked like he was concealing something and no other officer informed him of any such movements. Det. Haggerty did not know whether a strip search took place, as he did not accompany the above officers to the 13th Precinct stationhouse.

Security footage from the men’s shelter covers the hallway outside § 87(2)(b)’s apartment (BR 04-07). However, the camera is far away from § 87(2)(b)’s position. Additionally, the officers left the door of § 87(2)(b)’s room open during the search, and § 87(2)(b) stood behind that door during most of the video. It is therefore not possible to see what movements he made, if any, while waiting in the hallway.

“A strip search of a prisoner may not be conducted routinely in connection with an arrest,” but only when officers reasonably suspect “that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by” less invasive searches. Patrol Guide, Section 208-05 (BR 18).

Sgt. Stocker said his sole reason for authorizing a strip search was because § 87(2)(b) reached into the back of his waistband in way that made it look like he was concealing something.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation G – Force: At the 13th Precinct stationhouse, Detective Richard Altamirano used physical force against § 87(2)(b)

§ 87(2)(b) said that three officers took him into a bathroom for the strip search (BR 11). Two are known to the investigation as Sgt. Stocker and Det. Altamirano. The identity of the third is uncertain: § 87(2)(b) believed it was an officer from the prisoner van, but both of those officers – Det. Mercado and Det. Mantilla – denied being present during any strip search.

When the officers told § 87(2)(b) to remove his clothes, § 87(2)(b) said he did not feel comfortable doing that and wanted a lawyer. The officers said he had no choice. When § 87(2)(b) still did not remove his clothes, all three officers “rushed” toward him and one officer punched him in or around his face three or four times. § 87(2)(b) did not fight back and removed his own clothes shortly after being punched.

Det. Altamirano said that § 87(2)(b) removed his shirt but, when asked to remove his pants, said, “I’m not into this faggot shit” and refused (BR 12). § 87(2)(b) raised his hands in a combative stance. Det. Altamirano immediately grabbed § 87(2)(b)’s hands, put them behind his back, and handcuffed him. Det. Altamirano then removed § 87(2)(b)’s shorts himself. He denied punching § 87(2)(b) and said no officer used additional force against him.

Sgt. Stocker said § 87(2)(b) was “agitated” during the strip search and repeatedly called the officers “assholes,” but he removed his own clothes and, although he “tensed up,” he did not physically resist (BR 14). He said no physical force of any kind was used during the strip search.

§ 87(2)(b), § 87(2)(g)

Squad: 4

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer:

Title/Signature

Print

Date